

REFERENCE TITLE: **medical imaging equipment; services; self-referrals**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# **SB 1224**

Introduced by  
Senators O'Halleran: Allen

**AN ACT**

**AMENDING SECTIONS 32-1401, 32-1501, 32-1854, 32-2501 AND 32-3201, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3213; RELATING TO HEALTH PROFESSIONALS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1401, Arizona Revised Statutes, is amended to  
3 read:

4 32-1401. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Active license" means a valid and existing license to practice  
7 medicine.

8 2. "Adequate records" means legible medical records containing, at a  
9 minimum, sufficient information to identify the patient, support the  
10 diagnosis, justify the treatment, accurately document the results, indicate  
11 advice and cautionary warnings provided to the patient and provide sufficient  
12 information for another practitioner to assume continuity of the patient's  
13 care at any point in the course of treatment.

14 3. "Advisory letter" means a nondisciplinary letter to notify a  
15 licensee that either:

16 (a) While there is insufficient evidence to support disciplinary  
17 action, the board believes that continuation of the activities that led to  
18 the investigation may result in further board action against the licensee.

19 (b) The violation is a minor or technical violation that is not of  
20 sufficient merit to warrant disciplinary action.

21 (c) While the licensee has demonstrated substantial compliance through  
22 rehabilitation or remediation that has mitigated the need for disciplinary  
23 action, the board believes that repetition of the activities that led to the  
24 investigation may result in further board action against the licensee.

25 4. "Approved hospital internship, residency or clinical fellowship  
26 program" means a program at a hospital that at the time the training occurred  
27 was legally incorporated and that had a program that was approved for  
28 internship, fellowship or residency training by the accreditation council for  
29 graduate medical education, the association of American medical colleges, the  
30 royal college of physicians and surgeons of Canada or any similar body in the  
31 United States or Canada approved by the board whose function is that of  
32 approving hospitals for internship, fellowship or residency training.

33 5. "Approved school of medicine" means any school or college offering  
34 a course of study that, on successful completion, results in the degree of  
35 doctor of medicine and whose course of study has been approved or accredited  
36 by an educational or professional association, recognized by the board,  
37 including the association of American medical colleges, the association of  
38 Canadian medical colleges or the American medical association.

39 6. "Board" means the Arizona medical board.

40 7. "Completed application" means that the applicant has supplied all  
41 required fees, information and correspondence requested by the board on forms  
42 and in a manner acceptable to the board.

43 8. "Direct supervision" means that a physician, physician assistant  
44 licensed pursuant to chapter 25 of this title or nurse practitioner certified  
45 pursuant to chapter 15 of this title is within the same room or office suite

1 as the medical assistant in order to be available for consultation regarding  
2 those tasks the medical assistant performs pursuant to section 32-1456.

3 9. "Dispense" means the delivery by a doctor of medicine of a  
4 prescription drug or device to a patient, except for samples packaged for  
5 individual use by licensed manufacturers or repackagers of drugs, and  
6 includes the prescribing, administering, packaging, labeling and security  
7 necessary to prepare and safeguard the drug or device for delivery.

8 10. "Doctor of medicine" means a natural person holding a license,  
9 registration or permit to practice medicine pursuant to this chapter.

10 11. "Full-time faculty member" means a physician employed full time as  
11 a faculty member while holding the academic position of assistant professor  
12 or a higher position at an approved school of medicine.

13 12. "Health care institution" means any facility as defined in section  
14 36-401, any person authorized to transact disability insurance, as defined in  
15 title 20, chapter 6, article 4 or 5, any person who is issued a certificate  
16 of authority pursuant to title 20, chapter 4, article 9 or any other  
17 partnership, association or corporation that provides health care to  
18 consumers.

19 13. "Immediate family" means the spouse, natural or adopted children,  
20 father, mother, brothers and sisters of the doctor and the natural or adopted  
21 children, father, mother, brothers and sisters of the doctor's spouse.

22 14. "Letter of reprimand" means a disciplinary letter that is issued by  
23 the board and that informs the physician that the physician's conduct  
24 violates state or federal law and may require the board to monitor the  
25 physician.

26 15. "Limit" means taking a nondisciplinary action that alters the  
27 physician's practice or professional activities if the board determines that  
28 there is evidence that the physician is or may be mentally or physically  
29 unable to safely engage in the practice of medicine.

30 16. "Medical assistant" means an unlicensed person who meets the  
31 requirements of section 32-1456, has completed an education program approved  
32 by the board, assists in a medical practice under the supervision of a doctor  
33 of medicine, physician assistant or nurse practitioner and performs delegated  
34 procedures commensurate with the assistant's education and training but does  
35 not diagnose, interpret, design or modify established treatment programs or  
36 perform any functions that would violate any statute applicable to the  
37 practice of medicine.

38 17. "Medical peer review" means:

39 (a) The participation by a doctor of medicine in the review and  
40 evaluation of the medical management of a patient and the use of resources  
41 for patient care.

42 (b) Activities relating to a health care institution's decision to  
43 grant or continue privileges to practice at that institution.

44 18. "Medically incompetent" means a person who the board determines is  
45 incompetent based on a variety of factors, including:

1 (a) A lack of sufficient medical knowledge or skills, or both, to a  
2 degree likely to endanger the health of patients.

3 (b) When considered with other indications of medical incompetence,  
4 failing to obtain a scaled score of at least seventy-five per cent on the  
5 written special purpose licensing examination.

6 19. "Medicine" means allopathic medicine as practiced by the recipient  
7 of a degree of doctor of medicine.

8 20. "Office based surgery" means a medical procedure conducted in a  
9 physician's office or other outpatient setting that is not part of a licensed  
10 hospital or licensed ambulatory surgical center.

11 21. "Physician" means a doctor of medicine licensed pursuant to this  
12 chapter.

13 22. "Practice of medicine" means the diagnosis, the treatment or the  
14 correction of or the attempt or the holding of oneself out as being able to  
15 diagnose, treat or correct any and all human diseases, injuries, ailments,  
16 infirmities, deformities, physical or mental, real or imaginary, by any  
17 means, methods, devices or instrumentalities, except as the same may be among  
18 the acts or persons not affected by this chapter. The practice of medicine  
19 includes the practice of medicine alone or the practice of surgery alone, or  
20 both.

21 23. "Restrict" means taking a disciplinary action that alters the  
22 physician's practice or professional activities if the board determines that  
23 there is evidence that the physician is or may be medically incompetent or  
24 guilty of unprofessional conduct.

25 24. "Special purpose licensing examination" means an examination  
26 developed by the national board of medical examiners on behalf of the  
27 federation of state medical boards for use by state licensing boards to test  
28 the basic medical competence of physicians who are applying for licensure and  
29 who have been in practice for a considerable period of time in another  
30 jurisdiction and to determine the competence of a physician under  
31 investigation by a state licensing board.

32 25. "Teaching hospital's accredited graduate medical education program"  
33 means that the hospital is incorporated and has an internship, fellowship or  
34 residency training program that is accredited by the accreditation council  
35 for graduate medical education, the American medical association, the  
36 association of American medical colleges, the royal college of physicians and  
37 surgeons of Canada or a similar body in the United States or Canada approved  
38 by the board whose function is that of approving hospitals for internship,  
39 fellowship or residency training.

40 26. "Teaching license" means a valid license to practice medicine as a  
41 full-time faculty member of an approved school of medicine or a teaching  
42 hospital's accredited graduate medical education program.

43 27. "Unprofessional conduct" includes the following, whether occurring  
44 in this state or elsewhere:

1 (a) Violating any federal or state laws, rules or regulations  
2 applicable to the practice of medicine.

3 (b) Intentionally disclosing a professional secret or intentionally  
4 disclosing a privileged communication except as either act may otherwise be  
5 required by law.

6 (c) False, fraudulent, deceptive or misleading advertising by a doctor  
7 of medicine or the doctor's staff, employer or representative.

8 (d) Committing a felony, whether or not involving moral turpitude, or  
9 a misdemeanor involving moral turpitude. In either case, conviction by any  
10 court of competent jurisdiction or a plea of no contest is conclusive  
11 evidence of the commission.

12 (e) Failing or refusing to maintain adequate records on a patient.

13 (f) Habitual intemperance in the use of alcohol or habitual substance  
14 abuse.

15 (g) Using controlled substances except if prescribed by another  
16 physician for use during a prescribed course of treatment.

17 (h) Prescribing or dispensing controlled substances to members of the  
18 physician's immediate family.

19 (i) Prescribing, dispensing or administering schedule II controlled  
20 substances as defined in section 36-2513 including amphetamines and similar  
21 schedule II sympathomimetic drugs in the treatment of exogenous obesity for a  
22 period in excess of thirty days in any one year, or the non-therapeutic use  
23 of injectable amphetamines.

24 (j) Prescribing, dispensing or administering any controlled substance  
25 or prescription-only drug for other than accepted therapeutic purposes.

26 (k) Signing a blank, undated or predated prescription form.

27 (l) Conduct that the board determines is gross malpractice, repeated  
28 malpractice or any malpractice resulting in the death of a patient.

29 (m) Representing that a manifestly incurable disease or infirmity can  
30 be permanently cured, or that any disease, ailment or infirmity can be cured  
31 by a secret method, procedure, treatment, medicine or device, if such is not  
32 the fact.

33 (n) Refusing to divulge to the board on demand the means, method,  
34 procedure, modality of treatment or medicine used in the treatment of a  
35 disease, injury, ailment or infirmity.

36 (o) Action that is taken against a doctor of medicine by another  
37 licensing or regulatory jurisdiction due to that doctor's mental or physical  
38 inability to engage safely in the practice of medicine, ~~OR~~ OR the doctor's  
39 medical incompetence or for unprofessional conduct as defined by that  
40 jurisdiction and that corresponds directly or indirectly to an act of  
41 unprofessional conduct prescribed by this paragraph. The action taken may  
42 include refusing, denying, revoking or suspending a license by that  
43 jurisdiction or a surrendering of a license to that jurisdiction, otherwise  
44 limiting, restricting or monitoring a licensee by that jurisdiction or  
45 placing a licensee on probation by that jurisdiction.

1 (p) Sanctions imposed by an agency of the federal government,  
2 including restricting, suspending, limiting or removing a person from the  
3 practice of medicine or restricting that person's ability to obtain financial  
4 remuneration.

5 (q) Any conduct or practice that is or might be harmful or dangerous  
6 to the health of the patient or the public.

7 (r) Violating a formal order, probation, consent agreement or  
8 stipulation issued or entered into by the board or its executive director  
9 under this chapter.

10 (s) Violating or attempting to violate, directly or indirectly, or  
11 assisting in or abetting the violation of or conspiring to violate ~~any~~  
12 ~~provision of~~ this chapter.

13 (t) Knowingly making any false or fraudulent statement, written or  
14 oral, in connection with the practice of medicine or if applying for  
15 privileges or renewing an application for privileges at a health care  
16 institution.

17 (u) Charging a fee for services not rendered or dividing a  
18 professional fee for patient referrals among health care providers or health  
19 care institutions or between these providers and institutions or a  
20 contractual arrangement that has the same effect. This subdivision does not  
21 apply to payments from a medical researcher to a physician in connection with  
22 identifying and monitoring patients for a clinical trial regulated by the  
23 United States food and drug administration.

24 (v) Obtaining a fee by fraud, deceit or misrepresentation.

25 (w) Charging or collecting a clearly excessive fee. In determining if  
26 a fee is clearly excessive, the board shall consider the fee or range of fees  
27 customarily charged in the state for similar services in light of modifying  
28 factors such as the time required, the complexity of the service and the  
29 skill requisite to perform the service properly. This subdivision does not  
30 apply if there is a clear written contract for a fixed fee between the  
31 physician and the patient that has been entered into before the provision of  
32 service.

33 (x) Fetal experiments conducted in violation of section 36-2302.

34 (y) The use of experimental forms of diagnosis and treatment without  
35 adequate informed patient consent, and without conforming to generally  
36 accepted experimental criteria, including protocols, detailed records,  
37 periodic analysis of results and periodic review by a medical peer review  
38 committee as approved by the federal food and drug administration or its  
39 successor agency.

40 (z) Engaging in sexual conduct with a current patient or with a former  
41 patient within six months after the last medical consultation unless the  
42 patient was the licensee's spouse at the time of the contact or, immediately  
43 preceding the physician-patient relationship, was in a dating or engagement  
44 relationship with the licensee. For the purposes of this subdivision,  
45 "sexual conduct" includes:

- 1 (i) Engaging in or soliciting sexual relationships, whether consensual  
2 or nonconsensual.
- 3 (ii) Making sexual advances, requesting sexual favors or engaging in  
4 any other verbal conduct or physical contact of a sexual nature.
- 5 (iii) Intentionally viewing a completely or partially disrobed patient  
6 in the course of treatment if the viewing is not related to patient diagnosis  
7 or treatment under current practice standards.
- 8 (aa) Procuring or attempting to procure a license to practice medicine  
9 or a license renewal by fraud, by misrepresentation or by knowingly taking  
10 advantage of the mistake of another person or an agency.
- 11 (bb) Representing or holding oneself out as being a medical specialist  
12 when such is not the fact.
- 13 (cc) Maintaining a professional connection with or lending one's name  
14 to enhance or continue the activities of an illegal practitioner of medicine.
- 15 (dd) Failing to furnish information in a timely manner to the board or  
16 the board's investigators or representatives if legally requested by the  
17 board.
- 18 (ee) Failing to allow properly authorized board personnel on demand to  
19 examine and have access to documents, reports and records maintained by the  
20 physician that relate to the physician's medical practice or medically  
21 related activities.
- 22 (ff) Knowingly failing to disclose to a patient on a form that is  
23 prescribed by the board and that is dated and signed by the patient or  
24 guardian acknowledging that the patient or guardian has read and understands  
25 that the doctor has a direct financial interest in a separate diagnostic or  
26 treatment agency or in nonroutine goods or services that the patient is being  
27 prescribed and if the prescribed treatment, goods or services are available  
28 on a competitive basis. This subdivision does not apply to:
- 29 (i) A referral by one doctor of medicine to another doctor of medicine  
30 within a group of doctors of medicine practicing together.
- 31 (ii) A REFERRAL THAT IS MADE PURSUANT TO THE REQUIREMENTS OF SECTION  
32 32-3213, SUBSECTION E.
- 33 (gg) Using chelation therapy in the treatment of arteriosclerosis or  
34 as any other form of therapy, with the exception of treatment of heavy metal  
35 poisoning, without:
- 36 (i) Adequate informed patient consent.
- 37 (ii) Conforming to generally accepted experimental criteria, including  
38 protocols, detailed records, periodic analysis of results and periodic review  
39 by a medical peer review committee.
- 40 (iii) Approval by the federal food and drug administration or its  
41 successor agency.
- 42 (hh) Prescribing, dispensing or administering anabolic-androgenic  
43 steroids to a person for other than therapeutic purposes.

1 (ii) Lack of or inappropriate direction, collaboration or direct  
2 supervision of a medical assistant or a licensed, certified or registered  
3 health care provider employed by, supervised by or assigned to the physician.

4 (jj) Knowingly making a false or misleading statement to the board or  
5 on a form required by the board or in a written correspondence, including  
6 attachments, with the board.

7 (kk) Failing to dispense drugs and devices in compliance with article  
8 6 of this chapter.

9 (ll) Conduct that the board determines is gross negligence, repeated  
10 negligence or negligence resulting in harm to or the death of a patient.

11 (mm) The representation by a doctor of medicine or the doctor's staff,  
12 employer or representative that the doctor is boarded or board certified if  
13 this is not true or the standing is not current or without supplying the full  
14 name of the specific agency, organization or entity granting this standing.

15 (nn) Refusing to submit to a body fluid examination or any other  
16 examination known to detect the presence of alcohol or other drugs as  
17 required by the board pursuant to section 32-1452 or pursuant to a board  
18 investigation into a doctor of medicine's alleged substance abuse.

19 (oo) Failing to report in writing to the Arizona medical board or the  
20 Arizona regulatory board of physician assistants any evidence that a doctor  
21 of medicine or a physician assistant is or may be medically incompetent,  
22 guilty of unprofessional conduct or mentally or physically unable to safely  
23 practice medicine or to perform as a physician assistant.

24 (pp) The failure of a physician who is the chief executive officer,  
25 the medical director or the medical chief of staff of a health care  
26 institution to report in writing to the board that the hospital privileges of  
27 a doctor of medicine have been denied, revoked, suspended, supervised or  
28 limited because of actions by the doctor that appear to show that the doctor  
29 is or may be medically incompetent, is or may be guilty of unprofessional  
30 conduct or is or may be unable to engage safely in the practice of medicine.

31 (qq) Representing oneself to be a current member of the board, its  
32 staff or a board medical consultant if this is not true.

33 (rr) Failing to make patient medical records in the physician's  
34 possession promptly available to a physician assistant, a nurse practitioner,  
35 a person licensed pursuant to this chapter or a podiatrist, chiropractor,  
36 naturopathic physician, osteopathic physician or homeopathic physician  
37 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper  
38 authorization to do so from the patient, a minor patient's parent, the  
39 patient's legal guardian or the patient's authorized representative or  
40 failing to comply with title 12, chapter 13, article 7.1.

41 (ss) Prescribing, dispensing or furnishing a prescription medication  
42 or a prescription-only device as defined in section 32-1901 to a person  
43 unless the licensee first conducts a physical examination of that person or  
44 has previously established a doctor-patient relationship. This subdivision  
45 does not apply to:

1 (i) A physician who provides temporary patient supervision on behalf  
2 of the patient's regular treating licensed health care professional.

3 (ii) Emergency medical situations as defined in section 41-1831.

4 (iii) Prescriptions written to prepare a patient for a medical  
5 examination.

6 (iv) Prescriptions written or prescription medications issued for use  
7 by a county or tribal public health department for immunization programs, ~~OR~~  
8 emergency treatment, ~~OR~~ in response to an infectious disease investigation,  
9 public health emergency, infectious disease outbreak or act of bioterrorism.  
10 For the purposes of this item, "bioterrorism" has the same meaning prescribed  
11 in section 36-781.

12 (tt) Performing office based surgery using sedation in violation of  
13 board rules.

14 (uu) Practicing medicine under a false or assumed name in this state.

15 Sec. 2. Section 32-1501, Arizona Revised Statutes, is amended to read:  
16 32-1501. Definitions

17 In this chapter, unless the context otherwise requires:

18 1. "Accepted therapeutic purpose" means treatment of a disease,  
19 injury, ailment or infirmity that is competent and generally recognized as  
20 safe and effective.

21 2. "Active license" means a current valid license to practice  
22 naturopathic medicine.

23 3. "Adequate medical records" means medical records containing  
24 sufficient information to identify the patient, the diagnosis and the  
25 treatment prescribed.

26 4. "Approved clinical training program" or "clinical training program"  
27 means a program for naturopathic medical students in which the training  
28 occurred or is being conducted by or in conjunction with an approved school  
29 of naturopathic medicine.

30 5. "Approved internship program" or "internship" means that the  
31 program in which the training occurred or is being conducted has been  
32 approved for internship training for physicians or for graduates of a school  
33 of naturopathic medicine by the board or was approved or accredited by an  
34 educational or professional association recognized by the board or by another  
35 state's or country's licensing agency recognized by the board.

36 6. "Approved postdoctoral training" or "postdoctoral training" means  
37 that the program in which the training occurred or is being conducted has  
38 been approved for specialty training or for graduate medical education in  
39 naturopathic medicine by the board or approved or accredited by an  
40 educational or professional association recognized by the board or by another  
41 state's or country's licensing agency recognized by the board.

42 7. "Approved preceptorship program" or "preceptorship" means that the  
43 program in which the training occurred or is being conducted has been  
44 approved for preceptorship training for physicians or for graduates of a  
45 school of naturopathic medicine by the board or was approved or accredited by

1 an educational or professional association recognized by the board or by  
2 another state's or country's licensing agency recognized by the board.

3 8. "Approved school of naturopathic medicine" or "school of  
4 naturopathic medicine" means a school or college determined by the board to  
5 have an educational program that meets standards prescribed by the council on  
6 naturopathic medical education, or its successor agency, and that offers a  
7 course of study that, on successful completion, results in the awarding of  
8 the degree of doctor of naturopathic medicine and whose course of study is  
9 either of the following:

10 (a) Accredited or a candidate for accreditation by an accrediting  
11 agency recognized by the United States secretary of education as a  
12 specialized accrediting agency for schools of naturopathic medicine or its  
13 successor.

14 (b) Accredited or a candidate for accreditation by an accrediting  
15 agency recognized by the council for higher education accreditation or its  
16 successor.

17 9. "Board" means the naturopathic physicians board of medical  
18 examiners.

19 10. "Chelation therapy" means an experimental medical therapy to  
20 restore cellular homeostasis through the use of intravenous, metal-binding  
21 and bioinorganic agents such as ethylene diamine tetraacetic acid. Chelation  
22 therapy does not include experimental therapy used to treat heavy metal  
23 poisoning.

24 11. "Completed application" means that the applicant paid the required  
25 fees and supplied all documents and information as requested by the board and  
26 in a manner acceptable to the board.

27 12. "Controlled substance" means a drug, substance or immediate  
28 precursor in schedules I through V of title 36, chapter 27, article 2.

29 13. "Direct supervision" means that a physician who is licensed  
30 pursuant to this chapter or chapter 13, 17 or 29 of this title:

31 (a) Is physically present and within sight or sound of the person  
32 supervised and is available for consultation regarding procedures that the  
33 physician has authorized and for which the physician remains responsible.

34 (b) Has designated a person licensed pursuant to this chapter or  
35 chapter 13, 17 or 29 of this title to provide direct supervision in the  
36 physician's absence.

37 14. "Doctor of naturopathic medicine" or "doctor" means a natural  
38 person licensed to practice naturopathic medicine under this chapter.

39 15. "Drug" has the same meaning prescribed in section 32-1901 but does  
40 not include:

41 (a) Intravenous administration of legend drugs, except for:

42 (i) Vitamins, chelation therapy and drugs used in emergency  
43 resuscitation and stabilization.

44 (ii) Minerals.

1 (b) Controlled substances listed as schedule I or II controlled  
2 substances as defined in the federal controlled substances act of 1970 (21  
3 United States Code section 802), except morphine and any homeopathic  
4 preparations that are also controlled substances.

5 (c) Cancer chemotherapeutics classified as legend drugs.

6 (d) Antipsychotics.

7 16. "General supervision" means that the physician is available for  
8 consultation regarding procedures that the physician has authorized and for  
9 which the physician remains responsible.

10 17. "Legend drug" means any drug defined by section 503(b) of the  
11 federal food, drug and cosmetic act and under which definition its label is  
12 required to bear the statement "Rx only".

13 18. "Letter of concern" means a nondisciplinary advisory letter that is  
14 issued by the board to a person who is regulated under this chapter and that  
15 states that while there is insufficient evidence to support disciplinary  
16 action the board believes that the person should modify or eliminate certain  
17 practices and that continuation of the activities that led to the information  
18 being submitted to the board may result in action against the person's  
19 license, certificate or registration.

20 19. "Letter of reprimand" means a disciplinary letter that is issued by  
21 the board and that informs a person who is regulated under this chapter that  
22 the person's conduct violates state or federal law but does not require the  
23 board to restrict the person's license, certificate or registration because  
24 the person's conduct did not result in harm to a patient or to the public.

25 20. "Limit" means taking a nondisciplinary action that alters the  
26 physician's practice or professional activities if the board determines that  
27 there is evidence that the physician is or may be mentally or physically  
28 unable to safely engage in the practice of medicine.

29 21. "Medical assistant" or "naturopathic medical assistant" means a  
30 person who is certified by the board as a medical assistant, who assists a  
31 doctor of naturopathic medicine and who may perform delegated procedures that  
32 are commensurate with the assistant's education and training under the direct  
33 supervision of a doctor of naturopathic medicine and that do not include  
34 diagnosing, designing or modifying established treatment programs or those  
35 procedures prohibited by the board or by this chapter.

36 22. "Medically incompetent" means a person who is licensed, certified  
37 or registered pursuant to this chapter and who lacks sufficient naturopathic  
38 medical knowledge or skills, or both, to a degree that is likely to endanger  
39 the health of patients.

40 23. "Naturopathic medical student" means a person who is enrolled in a  
41 course of study at an approved school of naturopathic medicine.

42 24. "Naturopathic medicine" means medicine as taught in approved  
43 schools of naturopathic medicine and in clinical, internship, preceptorship  
44 and postdoctoral training programs approved by the board and practiced by a

1 recipient of a degree of doctor of naturopathic medicine licensed pursuant to  
2 this chapter.

3 25. "Nurse" means a person licensed pursuant to chapter 15 of this  
4 title.

5 26. "Physician" means a doctor of naturopathic medicine licensed  
6 pursuant to this chapter.

7 27. "Practice of naturopathic medicine" means a medical system of  
8 diagnosing and treating diseases, injuries, ailments, infirmities and other  
9 conditions of the human mind and body including by natural means, drugless  
10 methods, drugs, nonsurgical methods, devices, physical, electrical, hygienic  
11 and sanitary measures and all forms of physical agents and modalities.

12 28. "Restrict" means taking a disciplinary action that alters the  
13 physician's practice or professional activities if the board determines that  
14 there is evidence that the physician is or may be medically incompetent or  
15 guilty of unprofessional conduct.

16 29. "Specialist" means a physician who has successfully completed  
17 approved postdoctoral training, who is certified by a specialty board of  
18 examiners recognized by the board and who is certified by the board to  
19 practice the specialty pursuant to this chapter.

20 30. "Unprofessional conduct" includes the following, whether occurring  
21 in this state or elsewhere:

22 (a) Intentionally disclosing a professional secret or intentionally  
23 disclosing a privileged communication except as either of these may otherwise  
24 be required by law.

25 (b) Any dishonorable conduct reflecting unfavorably on the profession.

26 (c) Committing a felony, whether or not involving moral turpitude, or  
27 a misdemeanor involving moral turpitude. In either case conviction by any  
28 court of competent jurisdiction or a plea of no contest is conclusive  
29 evidence of the commission of the felony or misdemeanor.

30 (d) Habitual intemperance in the use of alcohol or any substance  
31 abuse.

32 (e) The illegal use of any narcotic or hypnotic drugs, or illegal  
33 substances.

34 (f) Conduct that the board determines is gross malpractice, repeated  
35 malpractice or any malpractice resulting in the death of a patient.

36 (g) Impersonating another doctor of naturopathic medicine or any other  
37 practitioner of the healing arts.

38 (h) Falsely acting or assuming to act as a member, an employee or an  
39 authorized agent of the board.

40 (i) Procuring or attempting to procure a license or a certificate  
41 pursuant to this chapter by fraud, by misrepresentation or by knowingly  
42 taking advantage of the mistake of another person or agency.

43 (j) Having professional connection with or lending one's name to  
44 enhance or continue the activities of an illegal physician or an illegal  
45 practitioner of any healing art.

1 (k) Representing that a manifestly incurable disease, injury, ailment  
2 or infirmity can be permanently cured, or falsely or fraudulently  
3 representing that a curable disease, injury, ailment or infirmity can be  
4 cured within a stated time.

5 (l) Offering, undertaking or agreeing to cure or treat a disease,  
6 injury, ailment or infirmity by a secret means, method, treatment, medicine,  
7 substance, device or instrumentality.

8 (m) Refusing to divulge to the board on demand the means, method,  
9 treatment, medicine, substance, device or instrumentality used in the  
10 treatment of a disease, injury, ailment or infirmity.

11 (n) Giving or receiving, or aiding or abetting the giving or receiving  
12 of, rebates, either directly or indirectly.

13 (o) Knowingly making any false or fraudulent statement, written or  
14 oral, in connection with the practice of naturopathic medicine or any  
15 naturopathic treatment method.

16 (p) Immorality or misconduct that tends to discredit the naturopathic  
17 profession.

18 (q) Refusal, revocation or suspension of a license by any other state,  
19 district or territory of the United States or any other country, unless it  
20 can be shown that this action was not due to reasons that relate to the  
21 ability to safely and skillfully practice as a doctor of naturopathic  
22 medicine or to any act of unprofessional conduct in this paragraph.

23 (r) Any conduct or practice that is contrary to recognized standards  
24 of ethics of the naturopathic profession, any conduct or practice that does  
25 or might constitute a danger to the health, welfare or safety of the patient  
26 or the public, or any conduct, practice or condition that does or might  
27 impair the ability to safely and skillfully practice as a doctor of  
28 naturopathic medicine.

29 (s) Failure to observe any federal, state, county or municipal law  
30 relating to public health as a physician in this state.

31 (t) Violating or attempting to violate, directly or indirectly, or  
32 assisting in or abetting the violation of, or conspiring to violate ~~any of~~  
33 ~~the provisions of~~ this chapter or board rules.

34 (u) False, fraudulent, deceptive or misleading advertising or  
35 advertising the quality of a medical or health care service by a physician or  
36 by the physician's staff, employer or representative.

37 (v) Failing or refusing to maintain adequate medical records on a  
38 patient or failing or refusing to make medical records in the physician's  
39 possession promptly available to another physician or health care provider  
40 who is licensed pursuant to chapter 7, 8, 13, 15, 17 or 29 of this title on  
41 request and receipt of proper authorization to do so from the patient, a  
42 minor patient's parent, the patient's legal guardian or the patient's  
43 authorized representative or failing to comply with title 12, chapter 13,  
44 article 7.1.

1 (w) Referring a patient to a diagnostic or treatment facility or  
2 prescribing goods and services without disclosing in writing to the patient  
3 that the physician has a pecuniary interest in the facility, goods or  
4 services to which the patient is referred or prescribed. This subdivision  
5 does not apply to:

6 (i) A referral by one physician or practitioner to another physician  
7 or practitioner within a group of physicians or practitioners practicing  
8 together.

9 (ii) A REFERRAL THAT IS MADE PURSUANT TO THE REQUIREMENTS OF SECTION  
10 32-3213, SUBSECTION E.

11 (x) Sexual intimacies with a patient in the course of direct  
12 treatment.

13 (y) Failing to dispense drugs and devices in compliance with article 4  
14 of this chapter.

15 (z) Administering, dispensing or prescribing any drug or a device for  
16 other than an accepted therapeutic purpose.

17 (aa) Falsely representing or holding oneself out as being a specialist  
18 or representation by a doctor of naturopathic medicine or the doctor's staff,  
19 employer or representative that the doctor is boarded or board certified if  
20 this is not true or that standing is not current.

21 (bb) Delegating professional duties and responsibilities to a person  
22 if the person has not been approved or qualified by licensure or by  
23 certification to perform these duties or responsibilities.

24 (cc) Failing to appropriately supervise a naturopathic medical  
25 student, a nurse, a medical assistant, a health care provider or a technician  
26 employed by or assigned to the physician during the performance of delegated  
27 professional duties and responsibilities.

28 (dd) Using experimental forms of diagnosis or treatment without  
29 adequate informed consent of the patient or the patient's legal guardian and  
30 without conforming to experimental criteria including protocols, detailed  
31 records, periodic analysis of results and periodic review by a medical peer  
32 review committee as approved by the federal food and drug administration or  
33 its successor agency.

34 (ee) Failing to furnish information in a timely manner to the board or  
35 investigators or representatives of the board if this information is legally  
36 requested by the board and failing to allow properly authorized board  
37 personnel on demand to examine and have access to documents, reports and  
38 records maintained by the physician that relate to the physician's medical  
39 practice or medically related activities.

40 (ff) Failing to report in writing to the board evidence that a person  
41 licensed, certified or registered pursuant to this chapter is or may be  
42 medically incompetent, guilty of unprofessional conduct or mentally or  
43 physically unable to safely practice or assist in the practice of  
44 naturopathic medicine.

1 (gg) Conducting or engaging in an internship, preceptorship or  
2 clinical training program in naturopathic medicine without being approved and  
3 registered by the board for that internship, preceptorship or clinical  
4 training program.

5 (hh) Signing a blank, undated or predated prescription form.

6 (ii) Conduct that the board determines is gross negligence, repeated  
7 negligence or negligence resulting in harm or death to a patient.

8 (jj) Knowingly making a false or misleading statement in oral  
9 testimony to the board on a form required by the board or in written  
10 correspondence to the board, including attachments to that correspondence.

11 (kk) The failure of a physician who is the chief medical officer, the  
12 executive officer or the chief of staff of an internship, a preceptorship or  
13 a clinical training program to report in writing to the board that the  
14 privileges of a doctor of naturopathic medicine, a naturopathic medical  
15 student or a medical assistant have been denied, limited, revoked or  
16 suspended because that doctor's, student's or assistant's actions appear to  
17 indicate that the person is or may be medically incompetent, is or may be  
18 guilty of unprofessional conduct or is or may be unable to safely engage or  
19 assist in the practice of naturopathic medicine.

20 (ll) Action taken against a doctor of naturopathic medicine by a  
21 licensing or regulatory board in another jurisdiction due to that doctor's  
22 mental or physical inability to engage safely in the practice of naturopathic  
23 medicine, the doctor's medical incompetence or for unprofessional conduct as  
24 defined by that licensing or regulatory board and that corresponds directly  
25 or indirectly to an act of unprofessional conduct prescribed by this  
26 paragraph. The action taken may include refusing, denying, revoking or  
27 suspending a license, otherwise limiting, restricting or monitoring a  
28 licensee or placing a licensee on probation by that licensing or regulatory  
29 board.

30 (mm) Sanctions imposed by an agency of the federal government,  
31 including restricting, suspending, limiting or removing a person from the  
32 practice of naturopathic medicine or restricting that person's ability to  
33 obtain financial remuneration.

34 (nn) Violating any formal order, probation, consent agreement or  
35 stipulation issued or entered into by the board pursuant to this chapter.

36 (oo) Refusing to submit to a body fluid examination pursuant to a  
37 board investigation of alleged substance abuse by a doctor of naturopathic  
38 medicine.

39 (pp) Charging a fee for services not rendered or dividing a  
40 professional fee for patient referrals among health care providers or health  
41 care institutions or between these providers and institutions or a  
42 contractual arrangement that has this effect.

43 (qq) Obtaining a fee by fraud, deceit or misrepresentation.

44 (rr) Charging or collecting a clearly excessive fee. In determining  
45 if a fee is clearly excessive the board shall consider the fee or range of

1 fees customarily charged in this state for similar services, in light of  
2 modifying factors such as the time required, the complexity of the service  
3 and the skill required to perform the service properly. This subdivision  
4 does not apply if there is a clear written contract for a fixed fee between  
5 the physician and the patient that was entered into before the service was  
6 provided.

7 (ss) With the exception of heavy metal poisoning, using chelation  
8 therapy in the treatment of arteriosclerosis or as any other form of therapy  
9 without adequate informed patient consent and without conforming to generally  
10 accepted experimental criteria, including protocols, detailed records,  
11 periodic analysis of results and periodic review by a medical peer review  
12 committee.

13 (tt) Using a controlled substance unless it is prescribed by another  
14 physician for use during a prescribed course of treatment.

15 (uu) Prescribing, dispensing or administering anabolic androgenic  
16 steroids for other than therapeutic purposes.

17 (vv) Except in an emergency or urgent care situation, prescribing or  
18 dispensing a controlled substance to a member of the naturopathic physician's  
19 immediate family.

20 (ww) Prescribing, dispensing or furnishing a prescription medication  
21 or a prescription-only device as defined in section 32-1901 to a person  
22 unless the licensee first conducts a physical examination of that person or  
23 has previously established a doctor-patient relationship. This subdivision  
24 does not apply to:

25 (i) A licensee who provides temporary patient supervision on behalf of  
26 the patient's regular treating licensed health care professional.

27 (ii) An emergency medical situation as defined in section 41-1831.

28 (iii) Prescriptions written to prepare a patient for a medical  
29 examination.

30 (iv) Prescriptions written or prescription medications issued for use  
31 by a county or tribal public health department for immunization programs or  
32 emergency treatment or in response to an infectious disease investigation, a  
33 public health emergency, an infectious disease outbreak or an act of  
34 bioterrorism. For the purposes of this item, "bioterrorism" has the same  
35 meaning prescribed in section 36-781.

36 Sec. 3. Section 32-1854, Arizona Revised Statutes, is amended to read:

37 32-1854. Definition of unprofessional conduct

38 For the purposes of this chapter, "unprofessional conduct" includes the  
39 following acts, whether occurring in this state or elsewhere:

40 1. Wilfully betraying a professional secret or wilfully violating a  
41 privileged communication except as either of these may otherwise be required  
42 by law. This paragraph does not prevent members of the board from exchanging  
43 information with the licensing and disciplinary boards of other states,  
44 territories or districts of the United States or with foreign countries or

1 with osteopathic medical organizations located in this state or in any state,  
2 district or territory of this country or in any foreign country.

3 2. Committing a felony, whether or not involving moral turpitude, or a  
4 misdemeanor involving moral turpitude. In either case conviction by any  
5 court of competent jurisdiction is conclusive evidence of the commission.

6 3. Practicing medicine while under the influence of alcohol, narcotic  
7 or hypnotic drugs or any substance that impairs or may impair the licensee's  
8 ability to safely and skillfully practice medicine.

9 4. Being diagnosed by a physician licensed under this chapter or  
10 chapter 13 of this title or a psychologist licensed under chapter 19.1 of  
11 this title as excessively or illegally using alcohol or a controlled  
12 substance.

13 5. Prescribing, dispensing or administering controlled substances or  
14 prescription only drugs for other than accepted therapeutic purposes.

15 6. Engaging in the practice of medicine in a manner that harms or may  
16 harm a patient or that the board determines falls below the community  
17 standard.

18 7. Impersonating another physician.

19 8. Acting or assuming to act as a member of the board if this is not  
20 true.

21 9. Procuring, renewing or attempting to procure or renew a license to  
22 practice osteopathic medicine by fraud or misrepresentation.

23 10. Having professional connection with or lending one's name to an  
24 illegal practitioner of osteopathic medicine or any of the other healing  
25 arts.

26 11. Representing that a manifestly incurable disease, injury, ailment  
27 or infirmity can be permanently cured or that a curable disease, injury,  
28 ailment or infirmity can be cured within a stated time, if this is not true.

29 12. Failing to reasonably disclose and inform the patient or the  
30 patient's representative of the method, device or instrumentality the  
31 licensee uses to treat the patient's disease, injury, ailment or infirmity.

32 13. Refusing to divulge to the board on demand the means, method,  
33 device or instrumentality used in the treatment of a disease, injury, ailment  
34 or infirmity.

35 14. Charging a fee for services not rendered or dividing a professional  
36 fee for patient referrals. This paragraph does not apply to payments from a  
37 medical researcher to a physician in connection with identifying and  
38 monitoring patients for clinical trial regulated by the United States food  
39 and drug administration.

40 15. Knowingly making any false or fraudulent statement, written or  
41 oral, in connection with the practice of medicine or when applying for or  
42 renewing privileges at a health care institution or a health care program.

43 16. Advertising in a false, deceptive or misleading manner.

1           17. Representing or holding oneself out as being an osteopathic medical  
2 specialist if the physician has not satisfied the applicable requirements of  
3 this chapter or board rules.

4           18. The denial of or disciplinary action against a license by any other  
5 state, territory, district or country, unless it can be shown that this  
6 occurred for reasons that did not relate to the person's ability to safely  
7 and skillfully practice osteopathic medicine or to any act of unprofessional  
8 conduct as provided in this section.

9           19. Any conduct or practice contrary to recognized standards of ethics  
10 of the osteopathic medical profession.

11           20. Violating or attempting to violate, directly or indirectly, or  
12 assisting in or abetting the violation of or conspiring to violate ~~any of the~~  
13 ~~provisions of~~ this chapter.

14           21. Failing or refusing to establish and maintain adequate records on a  
15 patient as follows:

16           (a) If the patient is an adult, for at least seven years after the  
17 last date the licensee provided the patient with medical or health care  
18 services.

19           (b) If the patient is a child, either for at least three years after  
20 the child's eighteenth birthday or for at least seven years after the last  
21 date the licensee provided that patient with medical or health care services,  
22 whichever date occurs first.

23           (c) If the patient dies before the expiration of the dates prescribed  
24 in subdivision (a) or (b) of this paragraph, for at least three years after  
25 the patient's death.

26           22. Using controlled substances or prescription-only drugs unless they  
27 are provided by a medical practitioner, as defined in section 32-1901, as  
28 part of a lawful course of treatment.

29           23. Prescribing controlled substances to members of one's immediate  
30 family unless there is no other physician available within fifty miles to  
31 treat a member of the family and an emergency exists.

32           24. Nontherapeutic use of injectable amphetamines.

33           25. Violating a formal order, probation or a stipulation issued by the  
34 board under this chapter.

35           26. Charging or collecting an inappropriate fee. This paragraph does  
36 not apply to a fee that is fixed in a written contract between the physician  
37 and the patient and entered into before treatment begins.

38           27. Using experimental forms of therapy without adequate informed  
39 patient consent or without conforming to generally accepted criteria and  
40 complying with federal and state statutes and regulations governing  
41 experimental therapies.

42           28. Failing to make patient medical records in the physician's  
43 possession promptly available to a physician assistant, a nurse practitioner,  
44 a person licensed pursuant to this chapter or a podiatrist, chiropractor,  
45 naturopathic physician, physician or homeopathic physician licensed under

1 chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization  
2 to do so from the patient, a minor patient's parent, the patient's legal  
3 guardian or the patient's authorized representative or failing to comply with  
4 title 12, chapter 13, article 7.1.

5 29. Failing to allow properly authorized board personnel to have, on  
6 presentation of a subpoena, access to any documents, reports or records that  
7 are maintained by the physician and that relate to the physician's medical  
8 practice or medically related activities pursuant to section 32-1855.01.

9 30. Signing a blank, undated or predated prescription form.

10 31. Obtaining a fee by fraud, deceit or misrepresentation.

11 32. Failing to report to the board an osteopathic physician and surgeon  
12 who is or may be guilty of unprofessional conduct or is or may be mentally or  
13 physically unable safely to engage in the practice of medicine.

14 33. Referring a patient to a diagnostic or treatment facility or  
15 prescribing goods and services without disclosing that the physician has a  
16 direct pecuniary interest in the facility, goods or services to which the  
17 patient has been referred or prescribed. This paragraph does not apply to:

18 (a) A referral by one physician to another physician within a group of  
19 physicians practicing together.

20 (b) **A REFERRAL THAT IS MADE PURSUANT TO THE REQUIREMENTS OF SECTION**  
21 **32-3213, SUBSECTION E.**

22 34. Lack of or inappropriate direction, collaboration or supervision of  
23 a licensed, certified or registered health care provider or office personnel  
24 employed by or assigned to the physician in the medical care of patients.

25 35. Violating a federal law, a state law or a rule applicable to the  
26 practice of medicine.

27 36. Prescribing or dispensing controlled substances or  
28 prescription-only medications without establishing and maintaining adequate  
29 patient records.

30 37. Failing to dispense drugs and devices in compliance with article 4  
31 of this chapter.

32 38. Any conduct or practice that endangers a patient's or the public's  
33 health or may reasonably be expected to do so.

34 39. Any conduct or practice that impairs the licensee's ability to  
35 safely and skillfully practice medicine or that may reasonably be expected to  
36 do so.

37 40. With the exception of heavy metal poisoning, using chelation  
38 therapy in the treatment of arteriosclerosis or as any other form of therapy  
39 without adequate informed patient consent and without conforming to generally  
40 accepted experimental criteria, including protocols, detailed records,  
41 periodic analysis of results and periodic review by a medical peer review  
42 committee.

43 41. Prescribing, dispensing or administering anabolic-androgenic  
44 steroids to a person for other than therapeutic purposes.

1           42. Engaging in sexual conduct with a current patient or with a former  
2 patient within six months after the last medical consultation unless the  
3 patient was the licensee's spouse at the time of the contact or, immediately  
4 preceding the physician-patient relationship, was in a dating or engagement  
5 relationship with the licensee. For the purposes of this paragraph, "sexual  
6 conduct" includes:

7           (a) Engaging in or soliciting sexual relationships, whether consensual  
8 or nonconsensual.

9           (b) Making sexual advances, requesting sexual favors or engaging in  
10 any other verbal conduct or physical conduct of a sexual nature.

11           43. Fetal experiments conducted in violation of section 36-2302.

12           44. Conduct that the board determines constitutes gross negligence,  
13 repeated negligence or negligence that results in harm or death of a patient.

14           45. Conduct in the practice of medicine that evidences moral unfitness  
15 to practice medicine.

16           46. Engaging in disruptive or abusive behavior in a professional  
17 setting.

18           47. Failing to disclose to a patient that the licensee has a direct  
19 financial interest in a prescribed treatment, good or service if the  
20 treatment, good or service is available on a competitive basis. This  
21 paragraph does not apply to a referral by one licensee to another licensee  
22 within a group of licensees who practice together. A licensee meets the  
23 disclosure requirements of this paragraph if all of the following are true:

24           (a) The licensee makes the disclosure on a form prescribed by the  
25 board.

26           (b) The patient or the patient's guardian or parent acknowledges by  
27 signing the form that the licensee has disclosed the licensee's direct  
28 financial interest.

29           48. Prescribing, dispensing or furnishing a prescription medication or  
30 a prescription-only device to a person if the licensee has not conducted a  
31 physical examination of that person or has not previously established a  
32 physician-patient relationship. This paragraph does not apply to  
33 emergencies.

34           49. If a licensee provides medical care by computer, failing to  
35 disclose the licensee's license number and the board's address and telephone  
36 number.

37           Sec. 4. Section 32-2501, Arizona Revised Statutes, is amended to read:  
38           32-2501. Definitions

39           In this chapter, unless the context otherwise requires:

40           1. "Active license" means a regular or temporary license issued  
41 pursuant to this chapter.

42           2. "Adequate records" means legible medical records containing, at a  
43 minimum, sufficient information to identify the patient, support the  
44 diagnosis, justify the treatment, accurately document the results, indicate  
45 advice and cautionary warnings provided to the patient and provide sufficient

1 information for another practitioner to assume continuity of the patient's  
2 care at any point in the course of treatment.

3 3. "Advisory letter" means a nondisciplinary letter to notify a  
4 physician assistant that either:

5 (a) While there is insufficient evidence to support disciplinary  
6 action, the board believes that continuation of the activities that led to  
7 the investigation may result in further board action against the licensee.

8 (b) The violation is a minor or technical violation that is not of  
9 sufficient merit to warrant disciplinary action.

10 (c) While the licensee has demonstrated substantial compliance through  
11 rehabilitation or remediation that has mitigated the need for disciplinary  
12 action, the board believes that repetition of the activities that led to the  
13 investigation may result in further board action against the licensee.

14 4. "Approved program" means a physician assistant educational program  
15 that has been fully or provisionally accredited by the committee on allied  
16 health education and accreditation or by the commission on the accreditation  
17 for allied health education programs, or successor agencies, on the  
18 recommendation of the accreditation review committee on education for  
19 physician assistants.

20 5. "Board" means the Arizona regulatory board of physician assistants.

21 6. "Completed application" means an application for which the  
22 applicant has supplied all required fees, information and correspondence  
23 requested by the board on forms and in a manner acceptable to the board.

24 7. "Immediate family" means the spouse, natural or adopted children,  
25 father, mother, brothers and sisters of the physician assistant and the  
26 natural or adopted children, father, mother, brothers and sisters of the  
27 physician assistant's spouse.

28 8. "Letter of reprimand" means a disciplinary letter that is issued by  
29 the board and that informs the physician assistant that the physician  
30 assistant's conduct violates state or federal law and may require the board  
31 to monitor the physician assistant.

32 9. "Limit" means a nondisciplinary action that is taken by the board  
33 and that alters a physician assistant's practice or medical activities if  
34 there is evidence that the physician assistant is or may be mentally or  
35 physically unable to safely engage in health care tasks.

36 10. "Medically incompetent" means that a physician assistant lacks  
37 sufficient medical knowledge or skills, or both, in performing delegated  
38 health care tasks to a degree likely to endanger the health or safety of  
39 patients.

40 11. "Minor surgery" means those invasive procedures that may be  
41 delegated to a physician assistant by a supervising physician, that are  
42 consistent with the training and experience of the physician assistant, that  
43 are normally taught in courses of training approved by the board and that  
44 have been approved by the board as falling within a scope of practice of a  
45 physician assistant. Minor surgery does not include a surgical abortion.

1           12. "Notification of supervision" means a written notice that is  
2 provided to the board by a supervising physician and that notifies the board  
3 that the physician intends to supervise a physician assistant. The physician  
4 shall provide this notice on a form prescribed by the board before the  
5 physician assistant begins work.

6           13. "Physician" means a physician licensed pursuant to chapter 13 or 17  
7 of this title.

8           14. "Physician assistant" means a person who is licensed pursuant to  
9 this chapter and who performs health care tasks pursuant to a dependent  
10 relationship with a physician.

11           15. "Primary place for meeting patients" includes the supervising  
12 physician's office, health care institutions in which the supervising  
13 physician's patients are located or homes of patients.

14           16. "Regular license" means a valid and existing license issued  
15 pursuant to section 32-2521 to perform health care tasks. Regular license  
16 does not include a temporary license.

17           17. "Restrict" means a disciplinary action that is taken by the board  
18 and that alters a physician assistant's practice or medical activities if  
19 there is evidence that the physician assistant is or may be medically  
20 incompetent or guilty of unprofessional conduct.

21           18. "Supervising physician" means a physician who holds a current  
22 unrestricted license, provides a notification of supervision, assumes legal  
23 responsibility for health care tasks performed by the physician assistant and  
24 is approved by the board.

25           19. "Supervising physician's agent" means a physician who holds a  
26 current unrestricted license, is a cosignatory on the notification of  
27 supervision, agrees to act as the supervising physician in the supervising  
28 physician's absence and is approved by the board.

29           20. "Supervision" means a physician's opportunity or ability to provide  
30 or exercise control over the services of a physician assistant. Supervision  
31 does not require a physician's constant physical presence if the supervising  
32 physician or the supervising physician's agent is or can be easily in contact  
33 with the physician assistant by radio, telephone or telecommunication.

34           21. "Unprofessional conduct" includes the following acts by a physician  
35 assistant that occur in this state or elsewhere:

36           (a) Violation of any federal or state law or rule that applies to the  
37 performance of health care tasks as a physician assistant. Conviction in any  
38 court of competent jurisdiction is conclusive evidence of a violation.

39           (b) Claiming to be a physician or knowingly permitting another person  
40 to represent that person as a physician.

41           (c) Performing health care tasks that have not been delegated by the  
42 supervising physician.

43           (d) Habitual intemperance in the use of alcohol or habitual substance  
44 abuse.

45           (e) Signing a blank, undated or predated prescription form.

1 (f) Gross malpractice, repeated malpractice or any malpractice  
2 resulting in the death of a patient.

3 (g) Representing that a manifestly incurable disease or infirmity can  
4 be permanently cured or that a disease, ailment or infirmity can be cured by  
5 a secret method, procedure, treatment, medicine or device, if this is not  
6 true.

7 (h) Refusing to divulge to the board on demand the means, method,  
8 procedure, modality of treatment or medicine used in the treatment of a  
9 disease, injury, ailment or infirmity.

10 (i) Prescribing or dispensing controlled substances or  
11 prescription-only drugs for which the physician assistant is not approved or  
12 in excess of the amount authorized pursuant to this chapter.

13 (j) Any conduct or practice that is or might be harmful or dangerous  
14 to the health of a patient or the public.

15 (k) Violation of a formal order, probation or stipulation issued by  
16 the board.

17 (l) Failing to clearly disclose the person's identity as a physician  
18 assistant in the course of the physician assistant's employment.

19 (m) Failing to use and affix the initials "P.A." or "P.A.-C." after  
20 the physician assistant's name or signature on charts, prescriptions or  
21 professional correspondence.

22 (n) Procuring or attempting to procure a physician assistant license  
23 by fraud, misrepresentation or knowingly taking advantage of the mistake of  
24 another.

25 (o) Having professional connection with or lending the physician  
26 assistant's name to an illegal practitioner of any of the healing arts.

27 (p) Failing or refusing to maintain adequate records on a patient.

28 (q) Using controlled substances that have not been prescribed by a  
29 physician, physician assistant, dentist or nurse practitioner for use during  
30 a prescribed course of treatment.

31 (r) Prescribing or dispensing controlled substances to members of the  
32 physician assistant's immediate family.

33 (s) Prescribing, dispensing or administering any controlled substance  
34 or prescription-only drug for other than accepted therapeutic purposes.

35 (t) Knowingly making any written or oral false or fraudulent statement  
36 in connection with the performance of health care tasks or when applying for  
37 privileges or renewing an application for privileges at a health care  
38 institution.

39 (u) Committing a felony, whether or not involving moral turpitude, or  
40 a misdemeanor involving moral turpitude. In either case, conviction by a  
41 court of competent jurisdiction or a plea of no contest is conclusive  
42 evidence of the commission.

43 (v) Having a certification or license refused, revoked, suspended,  
44 limited or restricted by any other licensing jurisdiction for the inability  
45 to safely and skillfully perform health care tasks or for unprofessional

1 conduct as defined by that jurisdiction that directly or indirectly  
2 corresponds to any act of unprofessional conduct as prescribed by this  
3 paragraph.

4 (w) Having sanctions including restriction, suspension or removal from  
5 practice imposed by an agency of the federal government.

6 (x) Violating or attempting to violate, directly or indirectly, or  
7 assisting in or abetting the violation of or conspiring to violate  
8 ~~a provision of~~ this chapter.

9 (y) Using the term "doctor" or the abbreviation "Dr." on a name tag or  
10 in a way that leads the public to believe that the physician assistant is  
11 licensed to practice as an allopathic or an osteopathic physician in this  
12 state.

13 (z) Failing to furnish legally requested information to the board or  
14 its investigator in a timely manner.

15 (aa) Failing to allow properly authorized board personnel to examine  
16 on demand documents, reports and records of any kind relating to the  
17 physician assistant's performance of health care tasks.

18 (bb) Knowingly making a false or misleading statement on a form  
19 required by the board or in written correspondence or attachments furnished  
20 to the board.

21 (cc) Failing to submit to a body fluid examination and other  
22 examinations known to detect the presence of alcohol or other drugs pursuant  
23 to an agreement with the board or an order of the board.

24 (dd) Violating a formal order, probation agreement or stipulation  
25 issued or entered into by the board or its executive director.

26 (ee) Except as otherwise required by law, intentionally betraying a  
27 professional secret or intentionally violating a privileged communication.

28 (ff) Allowing the use of the licensee's name in any way to enhance or  
29 permit the continuance of the activities of, or maintaining a professional  
30 connection with, an illegal practitioner of medicine or the performance of  
31 health care tasks by a person who is not licensed pursuant to this chapter.

32 (gg) False, fraudulent, deceptive or misleading advertising by a  
33 physician assistant or the physician assistant's staff or representative.

34 (hh) Knowingly failing to disclose to a patient on a form that is  
35 prescribed by the board and that is dated and signed by the patient or  
36 guardian acknowledging that the patient or guardian has read and understands  
37 that the licensee has a direct financial interest in a separate diagnostic or  
38 treatment agency or in nonroutine goods or services that the patient is being  
39 prescribed and if the prescribed treatment, goods or services are available  
40 on a competitive basis. This subdivision does not apply to:

41 (i) A referral by one physician assistant to another physician  
42 assistant or to a doctor of medicine or a doctor of osteopathy within a group  
43 working together.

44 (ii) A REFERRAL THAT IS MADE PURSUANT TO THE REQUIREMENTS OF SECTION  
45 32-3213, SUBSECTION E.

1 (ii) Using chelation therapy in the treatment of arteriosclerosis or  
2 as any other form of therapy.

3 (jj) Prescribing, dispensing or administering anabolic or androgenic  
4 steroids for other than therapeutic purposes.

5 (kk) Prescribing, dispensing or furnishing a prescription medication  
6 or a prescription-only device as defined in section 32-1901 to a person  
7 unless the licensee first conducts a physical examination of that person or  
8 has previously established a professional relationship with the person. This  
9 subdivision does not apply to:

10 (i) A physician assistant who provides temporary patient care on  
11 behalf of the patient's regular treating licensed health care professional.

12 (ii) Emergency medical situations as defined in section 41-1831.

13 (iii) Prescriptions written to prepare a patient for a medical  
14 examination.

15 (ll) Engaging in sexual conduct with a current patient or with a  
16 former patient within six months after the last medical consultation unless  
17 the patient was the licensee's spouse at the time of the contact or,  
18 immediately preceding the professional relationship, was in a dating or  
19 engagement relationship with the licensee. For the purposes of this  
20 subdivision, "sexual conduct" includes:

21 (i) Engaging in or soliciting sexual relationships, whether consensual  
22 or nonconsensual.

23 (ii) Making sexual advances, requesting sexual favors or engaging in  
24 other verbal conduct or physical contact of a sexual nature with a patient.

25 (iii) Intentionally viewing a completely or partially disrobed patient  
26 in the course of treatment if the viewing is not related to patient diagnosis  
27 or treatment under current practice standards.

28 (mm) Performing health care tasks under a false or assumed name in  
29 this state.

30 Sec. 5. Section 32-3201, Arizona Revised Statutes, is amended to read:  
31 32-3201. Definitions

32 In this chapter, unless the context otherwise requires:

33 1. "Health profession regulatory board" means any board that regulates  
34 one or more health professionals in this state.

35 2. "Health professional" means a person who is certified or licensed  
36 pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25,  
37 28, 29, 33, 34, 35, 39, 41 or 42 of this title, title 36, chapter 4, article  
38 6, title 36, chapter 6, article 7 or title 36, chapter 17.

39 3. "MEDICAL IMAGING EQUIPMENT" MEANS EQUIPMENT THAT IS USED TO PERFORM  
40 MAGNETIC RESONANCE IMAGING, COMPUTED TOMOGRAPHY, POSITRON-EMISSION TOMOGRAPHY  
41 OR NUCLEAR MEDICINE AND ANY HYBRID TECHNOLOGY THAT COMBINES ANY OF THESE  
42 MODALITIES. MEDICAL IMAGING EQUIPMENT INCLUDES RELATED SUPPLIES. MEDICAL  
43 IMAGING EQUIPMENT DOES NOT INCLUDE EQUIPMENT THAT IS USED FOR X-RAY AND  
44 ULTRASOUND SERVICES.

1 4. "MEDICAL IMAGING SERVICES":

2 (a) INCLUDES:

3 (i) RADIATION THERAPY SERVICES AND SUPPLIES, AS DESCRIBED IN SECTION  
4 1877 OF PART D OF TITLE XVIII OF THE SOCIAL SECURITY ACT, AND ALL RELATED  
5 PROFESSIONAL AND TECHNICAL COMPONENTS OF ANY DIAGNOSTIC TEST OR PROCEDURE.

6 (ii) RADIOLOGY AND CERTAIN OTHER IMAGING SERVICES, AS DESCRIBED IN  
7 SECTION 1877 OF PART D OF TITLE XVIII OF THE SOCIAL SECURITY ACT, AND ALL  
8 RELATED PROFESSIONAL AND TECHNICAL COMPONENTS OF ANY DIAGNOSTIC TEST OR  
9 PROCEDURE, INCLUDING MAGNETIC RESONANCE IMAGING, COMPUTED TOMOGRAPHY,  
10 POSITRON-EMISSION TOMOGRAPHY, NUCLEAR MEDICINE AND ANY HYBRID TECHNOLOGIES  
11 THAT COMBINE ANY OF THESE IMAGING MODALITIES AND RELATED SUPPLIES.

12 (b) DOES NOT INCLUDE X-RAY AND ULTRASOUND SERVICES AND RELATED  
13 PROFESSIONAL AND TECHNICAL COMPONENTS FOR X-RAY AND ULTRASOUND SERVICES.

14 ~~3-~~ 5. "Medical ~~record~~ RECORDS" has the same meaning prescribed in  
15 section 12-2291 but does not include prescription orders.

16 6. "OWNERSHIP INTEREST" INCLUDES ANY DIRECT OR INDIRECT INVESTMENT,  
17 OWNERSHIP, LEASEHOLD, TIMESHARING OR OTHER PROPERTY INTEREST OR AN ENTITY  
18 THAT HAS PROPERTY RIGHTS IN MEDICAL IMAGING EQUIPMENT, INCLUDING OWNERSHIP  
19 THROUGH AN IMMEDIATE FAMILY MEMBER OR A TRUST.

20 7. "REFERRAL" HAS THE SAME MEANING PRESCRIBED IN 42 CODE OF FEDERAL  
21 REGULATIONS SECTION 411.351.

22 Sec. 6. Title 32, chapter 32, article 1, Arizona Revised Statutes, is  
23 amended by adding section 32-3213, to read:

24 32-3213. Health professionals; self-referrals; unlawful  
25 practice

26 A. EXCEPT AS PROVIDED IN SECTION 1877 OF PART D OF TITLE XVIII OF THE  
27 SOCIAL SECURITY ACT AND REGULATIONS ADOPTED PURSUANT TO THAT ACT, A HEALTH  
28 PROFESSIONAL SHALL NOT MAKE A REFERRAL FOR A PATIENT TO RECEIVE MEDICAL  
29 IMAGING SERVICES.

30 B. A HEALTH PROFESSIONAL WHO ENGAGES IN AN ACT OR PRACTICE IN  
31 VIOLATION OF SUBSECTION A OF THIS SECTION COMMITS AN ACT OF UNPROFESSIONAL  
32 CONDUCT AND AN UNLAWFUL PRACTICE PURSUANT TO SECTION 44-1522.

33 C. THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION APPLY REGARDLESS  
34 OF THE SOURCE OF THE PAYMENT FOR THE MEDICAL IMAGING SERVICE.

35 D. EXCEPT AS PROVIDED PURSUANT TO SUBSECTION E OF THIS SECTION,  
36 SUBSECTION A OF THIS SECTION APPLIES TO EACH REFERRAL MADE ON OR AFTER THE  
37 EFFECTIVE DATE OF THIS SECTION BY A HEALTH PROFESSIONAL FOR MEDICAL IMAGING  
38 SERVICES ON MEDICAL IMAGING EQUIPMENT IN WHICH THE REFERRING HEALTH  
39 PROFESSIONAL HAS ANY OWNERSHIP INTEREST.

40 E. ON OR BEFORE DECEMBER 31, 2011, A HEALTH PROFESSIONAL MAY MAKE  
41 REFERRALS FOR MEDICAL IMAGING SERVICES ON MEDICAL IMAGING EQUIPMENT IN WHICH  
42 THE REFERRING HEALTH PROFESSIONAL HAS ANY OWNERSHIP INTEREST IF:

43 1. THE HEALTH PROFESSIONAL ESTABLISHED THE OWNERSHIP INTEREST IN THE  
44 MEDICAL IMAGING EQUIPMENT TO BE USED TO PERFORM THE SERVICES ON OR BEFORE  
45 SEPTEMBER 1, 2008.

1           2. THE MEDICAL IMAGING SERVICES ARE PERFORMED ON MEDICAL IMAGING  
2 EQUIPMENT.

3           3. THE HEALTH PROFESSIONAL:

4           (a) PROVIDES WRITTEN NOTICE THAT IS DATED AND SIGNED BY THE PATIENT OR  
5 THE PATIENT'S GUARDIAN ACKNOWLEDGING THAT THE PATIENT OR GUARDIAN HAS READ  
6 THE NOTICE AND UNDERSTANDS THAT THE HEALTH PROFESSIONAL HAS AN OWNERSHIP  
7 INTEREST IN THE MEDICAL IMAGING SERVICES.

8           (b) INFORMS THE PATIENT THAT THE PATIENT MAY RECEIVE THE MEDICAL  
9 IMAGING SERVICES FROM ANOTHER HEALTH PROFESSIONAL.

10          4. THE HEALTH PROFESSIONAL PROVIDES NOTICE OF ANY OWNERSHIP INTEREST  
11 IN MEDICAL IMAGING EQUIPMENT ON OR BEFORE SEPTEMBER 1, 2008 TO THE  
12 PROFESSIONAL'S HEALTH PROFESSION REGULATORY BOARD THAT CONTAINS THE FOLLOWING  
13 INFORMATION:

14          (a) THE NAME, MANUFACTURER, SERIAL NUMBER, MODEL NUMBER, MANUFACTURING  
15 DATE AND DELIVERY DATE OF THE MEDICAL IMAGING EQUIPMENT USED TO PERFORM  
16 MEDICAL IMAGING SERVICES.

17          (b) A COMPLETE LIST OF MEDICAL IMAGING SERVICES PERFORMED WITH THE  
18 MEDICAL IMAGING EQUIPMENT.

19          (c) THE DATE THE HEALTH PROFESSIONAL ACQUIRED THE OWNERSHIP INTEREST  
20 IN THE MEDICAL IMAGING EQUIPMENT.

21          (d) THE LOCATION OF THE MEDICAL IMAGING EQUIPMENT, AND IF THE MEDICAL  
22 IMAGING EQUIPMENT IS MOBILE, THE LOCATIONS AT WHICH THE MEDICAL IMAGING  
23 EQUIPMENT IS REGULARLY OPERATED.

24          (e) THE NATURE OF THE HEALTH PROFESSIONAL'S OWNERSHIP INTEREST IN THE  
25 MEDICAL IMAGING EQUIPMENT.

26          (f) THE NAME OF THE CORPORATION, COMPANY, PROFESSIONAL MEDICAL  
27 PRACTICE GROUP OR INDIVIDUAL THAT IS THE OWNER OF RECORD OF THE MEDICAL  
28 IMAGING EQUIPMENT.

29          (g) A COMPLETE LIST OF ALL PERSONS WHO HAVE AN OWNERSHIP INTEREST IN  
30 THE MEDICAL IMAGING EQUIPMENT.

31          F. THE HEALTH PROFESSIONAL SHALL RETAIN A COPY OF THE NOTICE FILED  
32 PURSUANT TO SUBSECTION E OF THIS SECTION.

33          G. THIS SECTION APPLIES TO REFERRALS FOR MEDICAL IMAGING SERVICES THAT  
34 ARE MADE BEGINNING AUGUST 1, 2008.

35          Sec. 7. Retroactivity

36          This act is effective retroactively to from and after July 31, 2008.